



MISSOURI ETHICS COMMISSION

P.O. Box 1370
Jefferson City, MO 65102
www.mec.mo.gov
(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

July 13, 2016

Mr. Philip Prewitt
PO Box 482
Macon, MO 63552

RE: MEC Case No. 15-0060-I

Dear Mr. Prewitt:

This letter of no further action is issued to you pursuant to the authority granted to the Missouri Ethics Commission in Section 105.961.4(5), RSMo.

The Commission has accepted the submission of the Joint Stipulation of Facts, Waiver of Hearings Before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law in this matter, a copy of which is marked as Exhibit A and incorporated herein by reference.

The Commission has found probable cause to believe that you violated Sections 130.021.4(1), 130.021.8, 130.041.1(3), and 130.021.4, RSMo, by not maintaining an official depository account in the committee's own name, not closing the committee's official depository account together with a termination report and statement accurately reporting the disposition of surplus funds and money on hand, incorrectly reporting a monetary contribution of \$31,132 as a monetary contribution on the "48 hour" disclosure statement, and reporting receiving and repaying a monetary loan of \$31,132 when that amount was not a monetary loan deposited into the committee's official depository account.

The Commission hereby issues this letter that it will take no further action for violation of Sections 130.021.4(1), 130.021.8, 130.041.1(3), and 130.021.4, RSMo.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Hagan".

Nancy Hagan, Chair
Missouri Ethics Commission

Enclosure(s)

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
JUL 13 2016
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 15-0060-I
)	
PHILIP PREWITT,)	
Candidate)	
)	
and)	
)	
COMMITTEE TO RE-ELECT JUDGE)	
PREWITT,)	
Candidate Committee)	
)	
Respondents.)	

CONSENT ORDER

The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondents violated Sections 130.021.4(1), 130.021.8, 130.041.1(3), and 130.021.4, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
2. The Ethics Commission has received Respondents' amended campaign finance disclosure reports, and Respondents have closed their official depository account.
3. The Ethics Commission orders that a letter be issued that no further action shall be taken, pursuant to Section 105.961.4(5), RSMo.

SO ORDERED this 13th day of July, 2016

By:

Nancy Hagan

Nancy Hagan, Chair
Missouri Ethics Commission

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
JUL 13 2016
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
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Petitioner,)	
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v.)	Case No. 15-0060-I
)	
PHILIP PREWITT,)	
Candidate)	
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and)	
)	
COMMITTEE TO RE-ELECT JUDGE)	
PREWITT,)	
Candidate Committee)	
)	
Respondents.)	

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE MISSOURI ETHICS COMMISSION, AND
CONSENT ORDER WITH JOINT PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Prewitt and Committee to Re-Elect Judge Prewitt, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondents further acknowledge that they are aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all allegations against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents'

behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondents by operation of law, the undersigned Respondents knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agree to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondents jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT PROPOSED FINDINGS OF FACT

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.
2. Respondent Prewitt was a successful candidate for Associate Circuit Judge in Macon County in the August 2014 primary and November 2014 general elections.
3. Respondent Committee to Re-Elect Judge Prewitt was a candidate committee registered with the Missouri Ethics Commission.
4. Respondents filed with the Missouri Ethics Commission a statement of committee organization on August 30, 2013 and a committee termination statement and report on January 14, 2015.

5. Pursuant to Sections 105.957 and 105.961, RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

6. Based on the investigation report, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

Count I

Committee Requirements

7. Respondents filed a statement of committee organization with Petitioner Missouri Ethics Commission on August 30, 2013.

8. The Missouri Ethics Commission observed that Respondents' statement of committee organization indicated a committee name of "Committee to Re-Elect Judge Prewitt," but the account name was listed as "Philip Prewitt," and asked Respondents to change the name of the committee account.

9. Respondents re-submitted the statement of committee organization with the account to reflect the name "Committee to Re-Elect Judge Prewitt."

10. However, Respondent did not change the name of the official depository account with Respondents' bank, and the bank accounts name remained in the name "Friends of Philip Prewitt," and not "Committee to Re-Elect Judge Prewitt."

11. Respondents filed a committee termination statement and report on January 14, 2015.

12. Respondents' termination report, as amended on January 14, 2015, showed the no surplus funds remaining.

13. The actual money on hand, as reflected in Respondents' official depository account, on January 14, 2015, was \$73.93, and Respondents did not terminate the account and dispose of surplus funds when they filed the committee termination report and statement.

14. Respondents' official depository account remained open, with a balance of \$73.93, until May 2015, when a withdrawal of \$79.99 was made to PayPal, which caused an overdraft fee of \$36, resulting in a negative balance of \$42.06 on May 22, 2015.

15. Because Respondents had already filed a committee termination report and statement, the transactions in May 2015 were not reported on Respondents' campaign finance disclosure reports.

16. On May 27, a \$50.00 deposit was made, and Respondents' official depository account maintained a balance of \$7.94 through at least December 2015.

17. Respondents have since closed their official depository account and reported the disposition of surplus funds on hand.

COUNT II

Failure to accurately report contributions

18. On or about January 13, 2014, Respondent Prewitt obtained a line of credit from a bank in the amount of \$30,000, with an annual rate of interest of 5.5 percent and a maturity date of July 1, 2014.

19. The purpose of the credit line was listed on the promissory note as "operating expenses."

20. The line of credit agreement did not indicate or refer to Respondent Prewitt's campaign or his candidate committee.

21. The line of credit was signed for and extended to Respondent Prewitt personally.

22. The line of credit was not a loan directly to Respondent Committee to Re-Elect Judge Prewitt.

23. Respondent Prewitt did not use funds from the line of credit to deposit money into the official depository account for Respondent Committee to Re-Elect Judge Prewitt.

24. Between February 18 and March 28, 2014, Respondent Prewitt did not otherwise deposit \$31,132, either from the \$30,000 line of credit or from personal funds, into the official depository account for Respondent Committee to Re-Elect Judge Prewitt.

25. On February 18, 2014, Respondent Prewitt filed an electronic "48 hour" report showing a monetary contribution of \$31,132 from himself to his candidate committee, Respondent Committee to Re-Elect Judge Prewitt.

26. On April 15, 2014, Respondent Prewitt and his candidate committee filed his April 2014 Quarterly disclosure report, showing \$31,132 monetary contribution as a loan from himself to his candidate committee, and that he had repaid the loan on March 28, 2014.

JOINT PROPOSED CONCLUSIONS OF LAW

Count I

Committee Requirements

27. Every committee must have an "official depository account in its own name." § 130.021.4(1), RSMo.

28. "Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed." § 130.021.8, RSMo.

29. The termination statement shall include "the distribution made of any remaining surplus funds and the disposition of any deficits." §130.021.8, RSMo.

30. There is probable cause to believe that Respondents violated Sections 130.021.4(1) and 130.021.8, RSMo, by failing to maintain an official depository account in the committee's own name, and by failing to close Respondents' official depository account together with a termination report and statement accurately reporting the disposition of surplus funds and money on hand.

COUNT II

Failure to accurately report contributions

31. For purposes of Chapter 130, RSMo, a contribution is "a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes." § 130.011(12), RSMo.

32. "A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value." § 130.011(12), RSMo.

33. A contribution includes, but is not limited to: "Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee." § 130.011(12)(e), RSMo.

34. For purposes of Chapter 130, RSMo, a "loan" is "a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election

campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee.” § 130.011(21), RSMo.

35. Committees are required to file campaign finance disclosure reports that set forth receipts for the period, including:

(f) A listing of each loan received by name and address of the lender and date and amount of the loan. For each loan of more than one hundred dollars, a separate statement shall be attached setting forth the name and address of the lender and each person liable directly, indirectly or contingently and the date, amount and terms of the loan.

§130.041.1(3), RSMo.

36. “All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee’s official fund depository account.”

§130.021.4, RSMo.

37. “Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee.” § 130.021.4(1), RSMo.

38. There is probable cause to believe that Respondents violated Sections 130.041.1(3) and 130.021.4, RSMo, by incorrectly reporting a contribution of \$31,132 as a monetary contribution on the “48 hour” disclosure statement, and reporting receiving and repaying a monetary loan of \$31,132 when that amount was not a monetary loan deposited into Respondents’ official depository account of Respondent Committee to Re-Elect Judge Prewitt.

II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

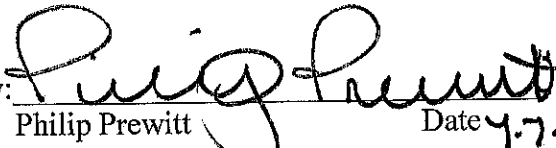
1. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.
2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.
 - a. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
 - b. The Ethics Commission has received Respondents' amended campaign finance disclosure reports, and Respondents have closed the official depository account.
 - c. The Ethics Commission orders that a letter be issued that no further action shall be taken, pursuant to Section 105.961.4(5), RSMo.
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.
4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or

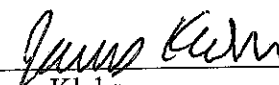
Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

SO AGREED:

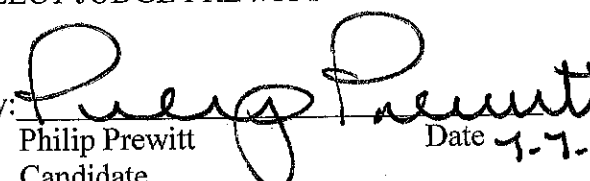
RESPONDENT PHILIP PREWITT

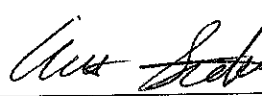
PETITIONER MISSOURI ETHICS
COMMISSION

By: 
Philip Prewitt Date 7-7-16

By:  7/15/16
James Klahr Date
Executive Director

RESPONDENT COMMITTEE TO RE-
ELECT JUDGE PREWITT

By: 
Philip Prewitt Date 7-7-16
Candidate

By:  July 15, 2016
Curtis R. Stokes Date
Attorney for Petitioner